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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,257	09/17/2003	Jean-Philippe Wary	704-011496-US(PAR)	3385
7590 PERMAN & GREEN, LLP 425 Post Road Fairfield, CT 06824			EXAMINER POWERS, WILLIAM S	
			ART UNIT 2134	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS			MAIL DATE 03/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/664,257

Applicant(s)

WARY, JEAN-PHILIPPE

Examiner

William S. Powers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1-9 are objected to because of the following informalities:
 - a. As to claim 1, the limitation "the network" recited in line 10 of the claim has insufficient antecedent basis. In addition, the phrase "users who have not" recited in line 14 is awkward.
 - b. As to claims 2-9, the phrase "A method" in line 1 of each of the claims creates confusion as to whether or not the dependent claims are modifying the method of claim 1.
 - c. As to claims 2 and 3, the limitation "the second isolating identifier" recited in lines 4-5 of claim 2 and line 2 of claim 3 has insufficient antecedent basis. Appropriate correction is required.
 - d. As to claims 4 and 5, it is unclear if "a user-related recording" in the claims refers to either one of the user-related recordings in claim 1.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1:

- a. It is unclear from the claim language what the phrase “as a function of an identifier of the content provider” (claim 1, lines 7-8) is referring. Does the function refer to accessing the recording or a description of the behavior or the gateway itself?
- b. It is not clear how the service provider provides a first user identifier to the gateway when the user sends a request to the content provider. It appears that the user-related recording is accessed twice, the first time through a first user identifier and the second time through a second isolating identifier (claim 1, lines 9-12 and lines 15-18). It is not clear why the same recording is accessed at two different times and in two different ways.
- c. What entity supplies the second isolating user identifier and how does the gateway receive it?
- d. The gateway comprises a default recording, but it has no apparent utility in the steps of the method of claim 1.
- e. It is unclear from the claim language what type of recording the user-related recording is. Is it audio or visual or audio/visual or is it a recording of text that is displayed for the user.

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f. It is unclear how the user accesses the gateway. There is no mention of any kind of access device for the user to contact the content provider.

g. The user-related recording is accessed by the gateway, but it is unclear if the recording is played to the user.

As to claim 2, it is not clear how the recording associates the first user identifier with at least one content provider identifier. It is additionally unclear what is meant by “a nature for the second isolating identifier” (claim 2, lines 4-5).

As to claim 3, it is not clear how the nature of the second isolating identifier is chosen and what entity makes the selection. The second isolating user identification is used in claim 1. Does choosing the nature of the second isolating user identification change the second isolating user identification or modify it in some way from its form in claim 1?

As to claim 4, it is not clear how the recording associates the first user identifier with at least one content provider identifier.

As to claim 5, it appears that the limitations of the claim contradict the limitations of claim 1. Specifically, claim 1 recites “a user-related recording that includes a description of the behavior that the user wishes the gateway to adopt” (claim 1, lines 5-7); while the present claim recites, “a user-related recording comprises a description of

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a default behavior for the gateway” (claim 5, lines 2-3). Does the recording include at least two behaviors or are there two different user-related recordings?

As to claim 6, is rejected based upon it's dependency from a rejected base claim.

As to claim 7, it appears that user must connect to the user database and must update the recording every time the user sends a request to the content provider.

As to claim 8, it is unclear at what point the user-related recording is recorded.

As to claim 9, the limitations recited in the claims are not method steps and are ambiguous as to whether any actions are executed. It is further unclear how the limitations modify the method steps of the parent claim. In addition, it is not clear why a default behavior would have to be explicitly be unlocked by the user.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 7,116,789 to Layton et al. (hereinafter Layton).

As to claim 1 as best understood, Layton teaches:

- a. The gateway has means to access a user-related recording that includes a description of the behavior that the user wishes the gateway to adopt, as a function of the content provider (Layton, column 4, lines 32-46 and column 8, lines 33-43).
- b. The gateway accesses the user-related recording through a first user identifier automatically known on the network and provided by the service provider, when the user sends a request to the content provider (Layton, column 8, lines 33-43).
- c. The gateway comprises a default recording related to all the users who have not a user-related recording (Layton, column 3, line 52-column 4, line 4).
- d. The gateway accesses the user-related recording through a second isolating user identifier (credit card number), during the reception of a request, concerning the user, for service on the part of the content provider (Layton, column 8, lines 33-43).
- e. The gateway has means to link the first and second identifiers (Layton, column 8, lines 33-43).

As to claim 2 as best understood, Layton teaches a user-related recording associates the first user identifier with at least one content provider identifier, a content provider identifier being associated with a nature for the second isolating identifier to be given to the content provider when the service provider relays a request from the user to the content provider (Layton, column 8, lines 33-43 and column 9, line 45-column 10, line 5).

As to claim 3 as best understood, Layton teaches the nature of the second isolating identifier is chosen from among at least the group formed by temporary, permanent or personalized identifiers (personalized as in a credit card) (Layton, column 8, lines 33-43 and column 9, line 45-column 10, line 5).

As to claim 4 as best understood, Layton teaches a user-related recording associates the first user identifier with at least one content provider identifier, a content provider identifier being associated with at least one service that the service provider is then authorized to place at the disposal of the content provider (business transaction) (Layton, column 8, lines 33-43 and column 9, line 45-column 10, line 5).

As to claim 5 as best understood, Layton teaches a user-related recording comprises a description of a default behavior for the gateway, the default behavior being adopted by the gateway when it is no longer possible to associate the user with a content provider (Layton, column 11, line 64-column 12, line 15).

As to claim 6 as best understood, Layton teaches the user-related recording is recorded in a user database interrogated by the gateway (Layton, column 4, lines 32-43).

As to claim 7 as best understood, Layton teaches the user is connected to the user database to update the recording concerning him (Layton, column 8, lines 33-34 and column 10, lines 44-50).

As to claim 8 as best understood, Layton teaches the user-related recording is recorded in a terminal of the user, the gateway interrogating this terminal to obtain the user-related recording (Layton, column 8, lines 33-34 and column 10, lines 44-50).

As to claim 9 as best understood, Layton teaches a default behavior of the gateway is locked by a lock that has to be opened explicitly by the user (portals are enabled as the user walks past them and they play the default behavior, advertisements and enticements, to the user) (Layton, column 11, line 64-column 12, line 15).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William S. Powers whose telephone number is 751 272 8573. The examiner can normally be reached on m-f 7:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571 272 3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


3/16/2007

William S. Powers
Examiner
Art Unit 2134


KAMBIZ ZAND
PRIMARY EXAMINER